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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,281	09/12/2003	Michael Rivers JR.	42208.0400	7661
20322	7590	11/08/2005		
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 850040001			EXAMINER JULES, FRANTZ F	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/661,281

Applicant(s)

RIVERS ET AL.

Examiner

Frantz F. Jules

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7-15 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-15, 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7, 9-15, 18, 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (US 6,776,459 B2) in view of Murnin (US 1,500,884). Fitzgerald discloses a wheel spinner assembly mountable to a first wheel face and second wheel face of a wheel of a vehicle, the assembly comprising a first spinner (11) rotatably mountable to said wheel in proximity to said first wheel face, said first spinner including a first spinner central bore through which at least one of a wheel extension shaft and a first side wheel hub which is a mounting cup is insertable during mounting to said wheel via, wherein said first spinner rotates around said at least one extension axle when said wheel rotates and wherein said first spinner substantially continues to rotate when said wheel ceases rotation, a second spinner (11) rotatably mountable to said wheel in proximity to said second wheel face as disclosed in col 1, lines 45-52, said second spinner including a second spinner central bore through which at least one extension axle shaft and a second side wheel mounting cup is insertable during mounting to said wheel, wherein said second spinner rotates around at least one extension axle when said wheel rotates and wherein said second spinner substantially

Art Unit: 3617

continues to rotate when said wheel ceases rotation, and a friction reducing means (12) in physical communication with said first spinner central bore, said friction reducing means configured to be fitted circumspect at least one of said wheel axle shaft and first side wheel hub, said friction reducing means supporting said first spinner.

A retaining means (10) is provided in physical communication with said friction reducing means in accordance with claim 2.

A spacer (13) including a bore is provided in communication with the friction reducing means and a first wheel hub (14) in accordance with claim 3.

Fitzgerald teaches all of the features as disclosed above but does not disclose a spinner assembly comprising a spinner attachment system in which an axle and a hub in addition to a bushing are insertable through the spinner. The general concept of providing a spinner attachment system in which an axle and a hub in addition to a bushing are insertable through the spinner in a spinner assembly is well known in the art as illustrated by Murnin which discloses the teaching of a spinner attachment system through which spinner an axle and a hub is insertable in addition to a bushing in a wheel spinner assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fitzgerald to include the use of a spinner attachment system in which an axle and a hub in addition to a bushing are insertable through the spinner in his advantageous spinner assembly as taught by Murnin in order to prevent loosening of the spinner assembly when exposed to high wind loading thereby improving safety.

Art Unit: 3617

3. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald and Murnin, as applied to claims 1 and 12, and further in view of Fenton (US 3,336,084).

Fitzgerald teaches all the limitations of claims 8 and 19 except for a wheel spinner assembly comprising radially disposed pockets responsive to the friction of passing air for increasing angular momentum. The general concept of providing a wheel spinner assembly comprising radially disposed pockets responsive to the friction of passing air for increasing angular momentum is well known in the art as illustrated by Fenton which disclose the teaching of radially disposed pockets responsive to the friction of passing air for increasing angular momentum in a spinner (63). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fitzgerald to include the use of a wheel spinner assembly comprising radially disposed pockets responsive to the friction of passing air for increasing angular momentum in his advantageous wheel spinner assembly as taught by Fenton in order to reduce the weight of the spinner assembly.

#### ***Response to Arguments***

4. Applicant's arguments filed 12/22/00 have been fully considered but they are not persuasive.

##### **A. Summary of applicant's argument**

In the amendment, applicant traversed the rejection of the claims for the following reasons:

Art Unit: 3617

1. The reference cited in the 103 rejection, Fitzgerald, fails to meet the claim limitation of the spinner rotating around the wheel axle.
2. The references cited in the rejection, Fitzgerald and Murnin, cannot be properly combined to yield applicant's invention as the Murnin reference is drawn to a stationary wheel disk
3. There is no teaching or motivation to combine the references.

B. Response to applicant's argument

1. Regarding applicant's argument number 1, it should be noted that the combination rejection was meant to address the shortcoming of a spinner through which an axle and a hub is insertable therethrough in addition to a bushing. It is agreed that there was a typo in listing the structures of Fitzgerald in the previous correspondence. The rejection has been corrected to highlight the fact that Fitzgerald does not disclose a spinner through which an axle and a hub is insertable therethrough in addition to a bushing. However, it is well known in the art to have a spinner attachment system through which an axle and a hub in addition to a bushing is insertable therethrough as taught by Murnin. One of ordinary skill in the art would have been motivated to substitute the spinner attachment system of Fitzgerald by that of Murnin in order to achieve a spinner through which an axle and a hub in addition to a bushing is insertable therethrough.
2. Regarding applicant's argument No.2, it is factual that disc member 25 of Murnin is fully rotatable since the collar 20 reposes upon roller bearings 24, or specifically 23 as shown in fig. 3 of the drawings. For the purpose of advertising, the disc member 25 is providing with weight 29 to prevent rotation of the disc. In other words, while hub

Art Unit: 3617

member 11 rotates with the wheel, disc 25 remains stationary. Thus, applicant's argument that the Murnin teach away from the claimed invention is not understood as both applicant's invention and Murnin are drawn to a disc mounting system by way of a hub and axle extending therethrough.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, an ordinary skill in the art would have been motivated to substitute the spinner attachment system of Fitzgerald by that of Murnin in order to achieve among others the benefit of reducing manufacturing cost.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone

Art Unit: 3617

number for the organization where this application or proceeding is assigned is 703-872-9306.

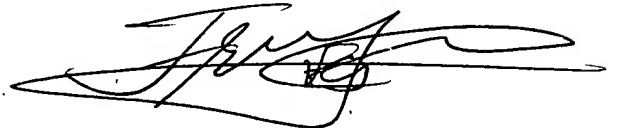
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

November 3, 2005

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz F. Jules', with a long horizontal flourish extending to the right.